

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

WILLIAM G. CLOWDIS, JR., M.D.,

Plaintiff,

v.

Case: 315:CV128

**JOEL JEREMY SILVERMAN, M.D.,
MCV ASSOCIATED PHYSICIANS
(d/b/a MCV PHYSICIANS),
WILLIAM L. HARP, M.D.,
JENNIFER L. DESCHENES, J.D., M.S.,
LORETTA S. HOPSON-BUSH,
AMY STEWART,
SANDRA WHITLEY RYALS,
RENEE S. DIXSON,
SHERRY FOSTER, R.N.,
DEPARTMENT OF HEALTH PROFESSIONS
VIRGINIA BOARD OF MEDICINE,
THE VIRGINIA HEALTH PRACTITIONER'S
MONITORING PROGRAM,
NATIONAL PRACTITIONER DATABASE,
VIRGINIA COMMONWEALTH UNIVERSITY,
VIRGINIA COMMONWEALTH UNIVERSITY
HEALTH SYSTEM, and
COMMONWEALTH OF VIRGINIA,**

Defendants.

**MOTION TO DISMISS PURSUANT TO
FED. R. CIV. P. 12(b)(1), 12(b)(4), AND 12(b)(6) BY DEFENDANTS
JOEL JEREMY SILVERMAN, M.D.; MCV ASSOCIATED PHYSICIANS;
AND VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY**

Defendants, Joel Jeremy Silverman, M.D.; MCV Associated Physicians d/b/a MCV Physicians; and Virginia Commonwealth University Health System Authority d/b/a VCU Health System, incorrectly named in this action as "Virginia Commonwealth University Health System," by counsel, and pursuant to Rules 12(b)(1), 12(b)(4), and 12(b)(6) of the Federal Rules

of Civil Procedure, move to dismiss Plaintiff's Second Amended Complaint for Mandamus and Damages¹ ("Complaint") with prejudice for lack of subject-matter jurisdiction, insufficient process, and failure to state a claim upon which relief may be granted. Defendants have filed a Memorandum of Law in Support of this Motion to Dismiss, which is filed simultaneously herewith.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law, Defendants, Joel Jeremy Silverman, M.D.; MCV Associated Physicians d/b/a MCV Physicians; and Virginia Commonwealth University Health System Authority d/b/a Virginia Commonwealth University Health System, request that this Honorable Court dismiss Plaintiff's Complaint with prejudice, and award any such further relief as it deems just and proper.

ROSEBORO NOTICE

Pursuant to Local Civil Rule 7(K) and *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), you are hereby advised that you have the opportunity to respond to the Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(4), and 12(b)(6) (the "Motion") filed by Defendants, Joel Jeremy Silverman, M.D.; MCV Associated Physicians d/b/a MCV Physicians; and Virginia Commonwealth University Health System Authority d/b/a VCU Health System, on November 24, 2015, which was sent via first class mail, postage prepaid, to you on that date. In this regard, you should consider the following:

- (1) You are entitled to file a response opposing the Motion. Any response must be filed with the Court within twenty-one (21) days from November 24, 2015;
- (2) If you do not file a response, the Court may dismiss your lawsuit on the basis of the Motion filed by Defendants, and their accompanying memorandum of law;
- (3) In any response, you must identify all facts upon which you disagree and you must set forth your version of the facts by offering affidavits (written statements

¹ Defendants note that Plaintiff never filed a First Amended Complaint for Mandamus and Damages.

signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that is signed under penalty of perjury); and

- (4) You are also entitled to file a legal brief in opposition to the one filed by Defendants.

Respectfully submitted,

**JOEL JEREMY SILVERMAN, M.D.,
MCV ASSOCIATED PHYSICIANS, and
VIRGINIA COMMONWEALTH
UNIVERSITY HEALTH SYSTEM
AUTHORITY**

/s/ Shyrell A. Reed

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*Counsel for Defendants, Joel Jeremy Silverman,
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Physicians, and Virginia Commonwealth University
Health System Authority*

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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